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Arnold Schwarzenegger, Governor  
Dale Bonner, Secretary, Business, Transportation and Housing Agency  
Jeff Davi, Real Estate Commissioner

Fall 2008

# MORTGAGE LOAN BULLETIN

## Advance fees and loan modifications

In the last Mortgage Loan Bulletin (Spring/Summer 2008) Commissioner Davi discussed the various issues regarding taking advance fees from borrowers who are at risk of foreclosure ("Advance Warning about Advance Fees"). He stated that there is a process that brokers must complete in order to legally collect advance fees for performing loan modifications and similar services.

The rules and regulations governing the collection of advance fees have been a part of the Real Estate Law for many decades. In fact, Section 10085 of the Business and Professions Code which requires the submission of an advance fee agreement to the DRE, was added to the law in 1958, as were

Commissioner's Regulations 2970 and 2972. They were put in place to protect consumers from being victimized by real estate licensees taking upfront money in return for promised services that were not performed. These rules are the same for loan modification and similar services as they are for any other advance fee service.

Here are some important points to consider before collecting advance fees for those types of services:

- ❖ Civil Code Section 2945 generally prohibits the collection of fees in advance from consumers when a Notice of Default has been recorded against the property.
- ❖ Unless otherwise exempt, a real

estate license is required to solicit, market, or provide loan modification, short sale and other loss mitigation services that involve the negotiation or renegotiation of the terms of a loan or sale of a property.

- ❖ A licensed broker must submit his or her advance fee agreement, accounting format and any advertising or promotional materials for the DRE to review. The broker cannot use the agreement or collect any fees in advance until he or she receives a "no objection" letter from the DRE.
- ❖ Agreements submitted by salesperson licensees or that provide for an

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## New rules on foreclosures as of July 8, 2008

The rules that govern how a lender or an authorized agent of the lender can foreclose on an owner-occupied home have changed. Senate Bill 1137 (Perata) (Chapter 69) became law with Governor Schwarzenegger's signature on July 8, 2008. It is important for homeowners to know their rights and for anyone who initiates or files foreclosures to become familiar with SB 1137. The following is a summary of the new rules:

1. Applies only to loans made from January 1, 2003 to December 31, 2007 and is in effect until January 1, 2013 unless extended by law. These rules took effect September 8, 2008:
  - (a) A Notice of Default cannot be filed until 30 days after contact is made with the borrower either in person or by telephone to assess the borrower's financial situation and explore options to avoid foreclosure. The borrower must be advised that he or she has a right to request another meeting within 14 days.
  - (b) The borrower must be provided with the toll-free telephone number of the U.S. Department of Housing and Urban Development (HUD) to find a HUD-

certified housing counseling agency.

- (c) If a Notice of Default is filed, it must include a declaration that the lender or authorized agent contacted the borrower, tried with due diligence to contact the borrower, or the borrower surrendered the property.
- (d) If a Notice of Default was filed before July 8, 2008, then the lender or authorized agent must include as a part of the notice of sale a declaration that states the borrower was contacted and lists any efforts made to contact the borrower.
- (e) A borrower may designate a HUD-certified counseling agency, attorney or other advisor to discuss with the lender or authorized agent on his or her behalf, options to avoid foreclosure. Any modification or workout plan must be approved by the borrower.
- (f) A Notice of Default may be filed when the borrower has not been contacted if the failure to contact the borrower occurred despite the due diligence of the

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# MORTGAGE LOAN BULLETIN

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STATE OF CALIFORNIA  
ARNOLD SCHWARZENEGGER  
*Governor*

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DALE BONNER  
*Secretary*

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*Real Estate Commissioner*

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DRE's Internet address is:  
<http://www.dre.ca.gov>



## New regulations have become final

**D**RE advised in the Spring/Summer issue of the Mortgage Loan Bulletin that the final regulations governing the mortgage loan disclosure statements and the rules for DRE licensees making loans had been submitted to the Office of Administrative Law (OAL) and were awaiting final approval. OAL approved the regulations and forms effective August 15, 2008. Please note the following information which is being provided to assist you in your compliance efforts.

### ***Commissioner's Regulation 2842 – Approved borrower disclosure statement for nontraditional and subprime mortgage products***

[Mortgage Loan Disclosure Statement/Good Faith Estimate – Nontraditional Mortgage Loan Product \(One to Four Residential Units\), RE885](#)

This form must be used when the loan being proposed to the borrower is a “nontraditional” loan product and is secured by a one to four unit residential property whether owner or non-owner occupied. Pursuant to Commissioner’s Regulation 2842 a “nontraditional” loan product is “a loan that allows borrowers to defer repayment of principal or interest.” Such products include, but are not limited to, interest only loans where a borrower pays no loan principal for a period of time and payment option loans where one or more of the payment options may result in negative amortization. A “nontraditional mortgage product” does not include reverse mortgages or home equity lines of credit (other than simultaneous second lien loans).” Many, but not all, of these nontraditional loan products are considered to be “subprime” loans.

### ***Commissioner's Regulation 2840 – Approved borrower disclosure statements***

[Mortgage Loan Disclosure Statement, RE882](#)


[Mortgage Loan Disclosure Statement/Good Faith Estimate, RE883](#)

These forms are used when the loan being proposed to the borrower is a “traditional” loan product – i.e. a loan product that does not allow the borrower to defer repayment of principal or interest. The loan may be secured by any type of real property including raw or unimproved land or parcels, commercial, multi-family, one to four units, etc. Whether the loan is considered to be “subprime” or not, if the loan does not allow the borrower to defer repayment of principal or interest, the loan is not a nontraditional loan product and the RE882 or RE883 are to be used. A broker may use either version of the form. These forms cannot be used when the loan being proposed to the borrower is a “nontraditional” loan product and secured by a one to four unit residential property.

### ***Commissioner's Regulation 2844 – Lending Practices for Nontraditional and Subprime Products***

This regulation affects real estate licensees who make loans secured by one to four unit residential properties from their own funds as defined in Business and Professions Code Section 10131.1. The regulation requires those licensees to adopt and adhere to minimum:

- ❖ risk management practices
- ❖ underwriting standards
- ❖ control systems
- ❖ consumer protection policies

It is recommended that all licensees review and become familiar with these regulations and forms. Questions should be directed to the Mortgage Loan Activities Unit at (916) 227-0770. 

# Summary of significant 2008 legislation

August 31, 2008 marked the end of the two year 2007/2008 legislative session. The following are brief summaries of legislative from 2008 that affect real estate licensees and many will be of special interest to those engaged in mortgage loan activities. These summaries are intended to alert you to pertinent changes to the law. We encourage you to consult the statutes for complete information. Copies of the bills can be obtained on-line at <http://www.leginfo.ca.gov/bilinfo.html>. Please note that "SB" refers to a Senate bill and "AB" to an Assembly bill and the Chapter number refers to sequence that the bill was filed with the Secretary of State. The name appearing after the bill number is the name of the author. All statutes are effective January 1, 2009 unless otherwise noted.

## **AB 180 (Bass) Foreclosure Consultants (Chapter 278)**

Foreclosure consultants are in the business of helping borrowers who are in default of their home loan, to stop, delay or resolve a foreclosure action. Existing law sets forth various consumer protections including, but not limited to, making it illegal for consultants to engage in certain deceitful practices, allowing consumers to rescind contracts entered into with a consultant up to three days after signing, and requiring representatives of a consultant to be bonded. AB 180 enhances consumer protections by, among other things, requiring foreclosure consultants to register with the Department of Justice and increase the bonding requirement for foreclosure consultants to \$100,000.

## **AB 2454 (Emmerson) Recovery Account Payout Limits Increased (Chapter 279)**

Under the real estate law, the DRE administers a recovery account from which the DRE can pay the victims of fraud their actual and direct losses, if the fraud was committed by a real estate licensee while performing acts for which a license is required. The payout from the fund is generally limited by statute to \$20,000 for any one transaction and \$100,000 for any one licensee.

AB 2454 increased the payout limits to \$50,000 for any one transaction and \$250,000 per licensee for applications received after January 1, 2009. The Department of Real Estate sponsored AB 2454.

## **SB 1137 (Perata) Foreclosure Procedures (Chapter 69)**

SB 1137, until January 1, 2013, changes the foreclosure requirements on loans that were originated on and between January 1, 2003 and December 31, 2007. Specifically, this bill requires lenders, prior to filing a notice of default, to contact or make a good faith attempt to contact borrowers to discuss available options. The bill also requires specific notices be given to the occupant of the property that is in foreclosure. And the bill would require the legal owner of a foreclosed, vacant property to maintain the property or be subject to fines. SB 1137 went into effect on 9/7/2008.

## **SB 1396 (Cox) Real Estate Fraud Prosecution Trust Fund (Chapter 405)**

Existing law allows counties to impose an additional \$2 recording fee on real estate documents and put the money into a county Real Estate Fraud Prosecution Trust Fund. County officials must use the Fund to deter, investigate, and prosecute real estate fraud crimes. SB 1396 increased the number of documents on which the additional \$2 recording fee can be charged and it increased the additional recording fee to \$3.


## **SB 1448 (Scott) Fines for Unlicensed Activity (Chapter 156)**

Existing law provides that any person acting as a real estate broker or real estate salesperson without a license is guilty of a public offense, punishable by a fine of up to \$10,000, imprisonment in the county jail for up to six months, or by both a fine and imprisonment. In addition, the law provides that if the unlicensed entity violating the law is a corporation, a fine of up to \$50,000 may be imposed. SB 1448 increases the fines for unlicensed activity to twenty thousand dollars (\$20,000) or by imprisonment in the county jail for a term not to exceed six months or by both fine and imprisonment; or if it is a corporation, be punished by a fine not exceeding sixty thousand dollars (\$60,000). This bill also requires any fines collected from a person in excess of \$10,000, and any fines collected from a corporation in excess of \$50,000, to be deposited into the county's Real Estate Fraud Prosecution Trust Fund, if such a trust fund exists in the county in which the person or corporation was prosecuted.

## **SB 1461 (Negrete McLeod) Disclosure of License Identification Number (Chapter 284)**

Effective 7/1/2009, this bill requires a real estate licensee to place his or her license identification number on all first point of contact marketing materials and on home purchase agreements which they negotiate. First point of contact materials includes business cards, stationery, advertising fliers, and other materials designed to solicit the creation of a professional relationship between the licensee and a consumer. The DRE sponsored SB 1461.

## **SB 1737 (Machado) Bar Orders, Short Sales and Dual Agency Disclosures (Chapter 286)**

SB 1737 makes three distinct changes to the Real Estate Law. First, the bill expands the DRE's regulatory authority to issue an order barring any individual from real estate related activity who has been found guilty of any offense involving fraud, dishonesty or deceit. Barred persons would also be prohibited from participating in any business activity of a finance lender, residential mortgage lender, bank, credit union, escrow company, or title company. Secondly, the bill expands the DRE's authority to discipline a licensee who generates an inaccurate opinion of value, requested in connection with a short sale, in order to acquire a financial or business advantage. Finally, the bill requires a licensee who represents a buyer or seller in a purchase/sale transaction and intends to arrange the financing in connection with the purchase of the property, to provide a written disclosure of his or her role as a mortgage broker to all parties to the sale of the property. 



# Disciplinary Action: May 08 - September 08

- The following individuals and real estate corporations engaging in mortgage loan activities were the subject of license disciplinary actions or the issuance of a Desist and Refrain Order for one or more violations of the Real Estate Law, the Regulations of the Real Estate Commissioner or the conviction of a crime.
- A list of actions is not published in this *Bulletin* until the 30-day period allowed for court appeal has expired, or if an appeal is filed and the disciplinary action is stayed, until the stay is dissolved. Names of persons to whom licenses are denied on application are not published.
- Licensees are listed alphabetically by District Office region of responsibility.
- Where the type of discipline indicates “*Suspended*” the license may be indefinitely suspended, suspended with a stay, or the suspension released upon payment of a monetary fine. Details of the suspension of a real estate license may be found on the Department’s Web site at [www.dre.ca.gov](http://www.dre.ca.gov) and using the “Check License Status” function to look up the license of an individual corporation, broker or salesperson.

## REVOKED LICENSES

### FRESNO REGION

#### Carlos, Laura Diana

License ID: 1757854  
License Type: Sales  
Effective Date: 09/30/08

#### Gonzales, Erik

License ID: 1255532  
License Type: Broker  
Effective Date: 09/30/08

#### Mayer & Mayer Financial

License ID: 1106189  
License Type: Broker  
Effective Date: 09/04/08

#### Mohammadi, Sneha

License ID: 1785047  
License Type: Broker  
Effective Date: 08/12/08

#### Oseguera-Langenberg, Xochitl I.

License ID: 1725430  
License Type: Broker  
Effective Date: 09/08/08

#### Silva, Juan Carlos

License ID: 1385292  
License Type: Sales  
Effective Date: 09/30/08

#### Thomas, Tina

License ID: 1207953  
License Type: Broker  
Effective Date: 07/24/08

#### Universal Mortgage and Sales, Inc.

License ID: 1311146  
License Type: Corporation  
Effective Date: 09/30/08

### LOS ANGELES REGION

#### Burrow, Donnell Dewayne

License ID: 1197110  
License Type: Broker  
Effective Date: 09/15/08

#### Burrow's Realty Services Inc

License ID: 1411377  
License Type: Corporation  
Effective Date: 09/15/08

#### Clearpoint Financial

License ID: 1432113  
License Type: Broker  
Effective Date: 08/12/08

#### Colonial National Bancorp

License ID: 1225100  
License Type: Corporation  
Effective Date: 05/07/08

#### Cox, Dennis

License ID: 884343  
License Type: Broker  
Effective Date: 05/07/08

#### Czech, Edward

License ID: 1270731  
License Type: Sales  
Effective Date: 07/28/08

#### Fairon, Patrick Michelle

License ID: 1132888  
License Type: Broker  
Effective Date: 06/09/08

#### First Gibraltar Mortgage Banc

License ID: 1295181  
License Type: Corporation  
Effective Date: 07/28/08

#### First Golden Mortgage Serv

License ID: 1316634  
License Type: Corporation  
Effective Date: 07/01/08

#### Head Financial Services Inc.

License ID: 1325609  
License Type: Corporation  
Effective Date: 05/05/08

#### Head, Charles Christopher

License ID: 1243428  
License Type: Broker  
Effective Date: 05/05/08

#### Laureano, Ronald

License ID: 1054285

License Type: Broker  
Effective Date: 08/12/08

#### Le, Alex Nam

License ID: 1263577  
License Type: Sales  
Effective Date: 09/29/08

#### Le, Nick Viethoai

License ID: 1417639  
License Type: Sales  
Effective Date: 09/29/08

#### Le, Thanh Quang

License ID: 1089981  
License Type: Broker  
Effective Date: 09/29/08

#### Long, Jonathan

License ID: 1387717  
License Type: Sales  
Effective Date: 06/09/08

#### Manhattan Mortgage Corporation

License ID: 1220927  
License Type: Corporation  
Effective Date: 09/04/08

#### New Century Home Loan Corp

License ID: 1252247  
License Type: Corporation  
Effective Date: 08/12/08

#### Plata Financing Inc. dba Casas America Realty

License ID: 1434118  
License Type: Corporation  
Effective Date: 06/05/08

#### Quiambao, Romeo Maclang

License ID: 1177015  
License Type: Broker  
Effective Date: 08/27/08

#### Romero, Theresa

License ID: 1269965  
License Type: Sales  
Effective Date: 09/04/08

#### Salazar, Jr., Domingo

License ID: 1031632  
License Type: Sales  
Effective Date: 05/28/08

#### Sciarrotta, Louis Francis

License ID: 932580  
License Type: Broker  
Effective Date: 06/05/08

#### Sciarrotta, Louis Francis

License ID: 932580  
License Type: Broker  
Effective Date: 09/25/08

#### Sharar, Harry

License ID: 1460439  
License Type: Broker  
Effective Date: 05/07/08

#### Solis, Henry Perpuli

License ID: 1017132  
License Type: Broker  
Effective Date: 09/29/08

#### U S A Financial Services, Inc.

License ID: 1399305  
License Type: Corporation  
Effective Date: 07/30/08

#### United Pacific Bancorp

License ID: 1453957  
License Type: Corporation  
Effective Date: 05/14/08

### OAKLAND REGION

#### A & A Lending Mortgage & Real Estate Co

License ID: 1478785  
License Type: Corporation  
Effective Date: 07/29/08

#### A&A Lending Mortgage & Real Estate

License ID: 1478785  
License Type: Corporation  
Effective Date: 07/29/08

#### ACR Investments International

License ID: 1356297  
License Type: Corporation  
Effective Date: 07/07/08

#### Avila, Maria

License ID: 1220825  
License Type: Sales  
Effective Date: 07/07/08

#### Hodgen, Ralph Earl

License ID: 967807  
License Type: Broker  
Effective Date: 06/05/08

#### Tullis, Sanford

License ID: 414601  
License Type: Broker  
Effective Date: 07/07/08

### SACRAMENTO REGION

#### California Home Loans Bancorp, Inc.

License ID: 1293588  
License Type: Corporation  
Effective Date: 09/11/08

#### Defilippo, Jared

License ID: 1510949  
License Type: Sales  
Effective Date: 09/11/08

#### Hodgen, Ralph Earl

License ID: 967807  
License Type: Broker  
Effective Date: 09/11/08

#### Hysom, Keith

License ID: 572585  
License Type: Broker  
Effective Date: 05/01/08

#### Johnson, Angela

License ID: 1806774  
License Type: Sales  
Effective Date: 08/06/08

#### Johnson, Joy E.

License ID: 1720856  
License Type: Sales  
Effective Date: 09/11/08

#### Nunes, Sharon

License ID: 856845  
License Type: Broker  
Effective Date: 08/06/08

### SAN DIEGO REGION

#### Ng, Ramon

License ID: 964041  
License Type: Sales  
Effective Date: 05/02/08

REVOKED WITH  
A RIGHT TO A  
RESTRICTED LICENSE

### FRESNO REGION

#### Property Pros Inc.

License ID: 1304485

License Type: Broker  
Effective Date: 09/09/08

#### LOS ANGELES REGION

**Hernandez, Rafael dba County Realty & Finance**

License ID: 883264  
License Type: Broker  
Effective Date: 06/11/08

**Moran, Mario Alfonso**

License ID: 1117106  
License Type: Broker  
Effective Date: 05/14/08

#### OAKLAND REGION

**Cohn, Russell**

License ID: 897644  
License Type: Broker  
Effective Date: 09/18/08

**Cohnsloans, Inc.**

License ID: 1253948  
License Type: Corporation  
Effective Date: 09/18/08

### SUSPENDED

#### FRESNO REGION

**Eddings, David**

License ID: 1217613  
License Type: Broker  
Effective Date: 09/04/08

**Hunt, Larry**

License ID: 1124974  
License Type: Broker  
Effective Date: 09/04/08

**Martin Mortgage Corporation**

License ID: 960564  
License Type: Broker  
Effective Date: 07/23/08

**Martin, Beverly**

License ID: 632687  
License Type: Broker  
Effective Date: 07/23/08

**Mayer, Beth Ann**

License ID: 838187  
License Type: Sales  
Effective Date: 09/04/08

**Pinheiro, Jill**

License ID: 1160811  
License Type: Sales  
Effective Date: 08/12/08

#### LOS ANGELES REGION

**Adams, Sheryl Annette**

License ID: 1200099  
License Type: Broker  
Effective Date: 09/16/08

**Baello, Claudia**

License ID: 1256493  
License Type: Sales  
Effective Date: 08/14/08

**Chrismer, Dwight Francis**

License ID: 1144725  
License Type: Broker  
Effective Date: 09/08/08

**Christian, Nancy Eileen**

License ID: 481169  
License Type: Broker  
Effective Date: 08/18/08

**Gerardo, Inc**

License ID: 1340885

License Type: Broker  
Effective Date: 06/17/08

**Goodyear Home Loan Corporation**

License ID: 1226130  
License Type: Corporation  
Effective Date: 09/08/08

**Home Bancorp International**

License ID: 1482380  
License Type: Corporation  
Effective Date: 05/05/08

**Joo, Sangjin**

License ID: 1155951  
License Type: Broker  
Effective Date: 06/02/08

**Kevoorkian, Armen Nick**

License ID: 879070  
License Type: Broker  
Effective Date: 09/08/08

**Kim, Jane J.**

License ID: 988556  
License Type: Broker  
Effective Date: 09/16/08

**KMG Mortgage Services, Inc.**

License ID: 1188809  
License Type: Corporation  
Effective Date: 06/17/08

**Love, Steve**

License ID: 634704  
License Type: Broker  
Effective Date: 05/05/08

**Manning, Aril Lee**

License ID: 904085  
License Type: Broker  
Effective Date: 08/14/08

**Montelongo, Gerardo**

License ID: 1160070  
License Type: Broker  
Effective Date: 06/17/08

**New York Financial, Inc.**

License ID: 1380860  
License Type: Corporation  
Effective Date: 06/02/08

**Norcapital Funding**

License ID: 1271212  
License Type: Corporation  
Effective Date: 06/30/08

**Nordstrom, Jeffrey**

License ID: 1234048  
License Type: Broker  
Effective Date: 06/30/08

**Nunez, Maricela**

License ID: 1715386  
License Type: Sales  
Effective Date: 09/08/08

**Ortiz, Aaron**

License ID: 1207905  
License Type: Broker  
Effective Date: 06/09/08

**Ortiz, Carmen**

License ID: 1458917  
License Type: Sales  
Effective Date: 06/17/08

**Perennial Financial Network**

License ID: 1522803  
License Type: Corporation  
Effective Date: 09/16/08

**Prather, Jeffrey Louis**

License ID: 797097  
License Type: Broker  
Effective Date: 06/11/08

**Pro Advantage Real Estate Inc. & Financial**

License ID: 1316828

License Type: Corporation  
Effective Date: 09/26/08

**Reynolds, Carolyn W.**

License ID: 685776  
License Type: Broker  
Effective Date: 09/26/08

**Strange, Shannon Kay**

License ID: 1244658  
License Type: Broker  
Effective Date: 06/17/08

**Superior Funding**

License ID: 1421375  
License Type: Corporation  
Effective Date: 09/08/08

**The FHL Financial Group**

License ID: 855314  
License Type: Corporation  
Effective Date: 06/11/08

**Viteri, Raul Martin**

License ID: 1756080  
License Type: Sales  
Effective Date: 08/04/08

**West, John Edgar**

License ID: 326069  
License Type: Sales  
Effective Date: 06/17/08

#### OAKLAND REGION

**Bowers, Gary R.**

License ID: 427534  
License Type: Broker  
Effective Date: 09/08/08

**Breeden, Gerald William**

License ID: 644172  
License Type: Broker  
Effective Date: 06/04/08

**Diversified Loan Services, Inc.**

License ID: 892106  
License Type: Corporation  
Effective Date: 06/04/08

**Investment Grade Loans**

License ID: 1235927  
License Type: Corporation  
Effective Date: 06/11/08

**KIWI & Co**

License ID: 1050197  
License Type: Corporation  
Effective Date: 05/27/08

**Lewis, Andrew**

License ID: 1137151  
License Type: Broker  
Effective Date: 06/11/08

**Vuong, Nathalie Bich**

License ID: 1278271  
License Type: Sales  
Effective Date: 05/27/08

**Freeman, Jon Orville**

License ID: 1182556  
License Type: Broker  
Effective Date: 05/27/08

#### SACRAMENTO REGION

**Blackburne & Brown Mortgage**

License ID: 829677  
License Type: Broker  
Effective Date: 07/30/08

**Blackburne, George**

License ID: 623143  
License Type: Broker  
Effective Date: 07/30/08

### LICENSE SURRENDERED

#### FRESNO REGION

**Clairmont Financial**

License ID: 1523929  
License Type: Corporation  
Effective Date: 09/08/08

#### LOS ANGELES REGION

**American Dream Funding Inc.**

License ID: 1214786  
License Type: Corporation  
Effective Date: 07/14/08

**Apex Financial Inc.**

License ID: 1475663  
License Type: Corporation  
Effective Date: 09/09/08

**Fresh Start Financial Inc.**

License ID: 1346663  
License Type: Corporation  
Effective Date: 09/01/08

**Hardwick, Sharon Kline**

License ID: 694173  
License Type: Broker  
Effective Date: 05/23/08

**Pacific Financial Lending Corporation**

License ID: 1417784  
License Type: Corporation  
Effective Date: 08/18/08

**Sotcher, Stanley William, Jr., dba Essel Mortgage**

License ID: 53586  
License Type: Broker  
Effective Date: 08/20/08

**United Equity Partners Inc**

License ID: 1420432  
License Type: Corporation  
Effective Date: 05/29/08

#### OAKLAND REGION

**Brookwood Mortgage and Investment Corp**

License ID: 1176537  
License Type: Corporation  
Effective Date: 05/29/08

**Gest, Michael Steven**

License ID: 979555  
License Type: Broker  
Effective Date: 05/29/08

### PUBLIC REPROVAL

#### LOS ANGELES REGION

**Woods Financial Corp**

License ID: 1157028  
License Type: Broker  
Effective Date: 09/02/08

### DESIST AND REFRAIN

#### FRESNO REGION

**Brard, Courtney Lee**

License ID: 1365761  
License Type: Sales  
Effective Date: 08/27/08

**Estate Financial, Inc.**

License ID: 1112980  
License Type: Corporation  
Effective Date: 08/28/08

**Estate Financial, Inc.**  
License ID: 1112980  
License Type: Corporation  
Effective Date: 06/27/08

**Guth, Karen R.**  
License ID: 1153783  
License Type: Sales  
Effective Date: 06/27/08 and 08/28/08

**Hurst Financial**  
License ID: 825280  
License Type: Corporation  
Effective Date: 08/27/08

**Liduvina Huizar dba Ruby Haro, Mi Tierra Mortgage**  
License ID: Unlicensed  
License Type: Unlicensed  
Effective Date: 05/12/08

**Miller, Jr., James Hurst**  
License ID: 758060  
License Type: Broker  
Effective Date: 08/27/08

**Nilsen, David Arthur**  
License ID: 525090  
License Type: Broker  
Effective Date: 05/16/08

**Nilsen, David Arthur and Cedar Funding, Inc.**  
License ID: 525090  
License Type: Broker  
Effective Date: 05/16/08

**Yaguda, Joshua Morris**  
License ID: 1223856  
License Type: Broker  
Effective Date: 06/27/08 and 8/28/08

#### LOS ANGELES REGION

**Allen, Julia**  
License ID: 513016  
License Type: Sales  
Effective Date: 06/30/08

**California Ranch Lands, Inc.**  
License ID: Unlicensed  
License Type: Unlicensed  
Effective Date: 06/30/08

**D'Antonio, Christi Katelynn**  
License ID: 1491473  
License Type: Broker  
Effective Date: 07/22/08

**Dorrin, Arthur**  
License ID: Unlicensed  
License Type: Unlicensed  
Effective Date: 06/30/08

**Fasttrack Financial**  
License ID: 1392028  
License Type: Corporation  
Effective Date: 06/20/08

**Home Base Funding Inc.**  
License ID: 1524773  
License Type: Corporation  
Effective Date: 05/09/08

**Pacificar, Gil Villocino**  
License ID: 426203  
License Type: Broker  
Effective Date: 05/09/08

**Rangel, Joseph**  
License ID: 1325054  
License Type: Broker  
Effective Date: 09/26/08

**Sherman, Alan Lee**  
License ID: 325219  
License Type: Broker  
Effective Date: 07/17/08

**Simplicity Lending, Inc.**  
License ID: 1517203  
License Type: Corporation  
Effective Date: 07/22/08

**Vega, Carlos Frank**  
License ID: 1309292  
License Type: Broker  
Effective Date: 06/20/08

**Watkins, Myron Eugene**  
License ID: 1205101  
License Type: Broker  
Effective Date: 05/29/08

#### OAKLAND REGION

**Halliwell, Patricia**  
License ID: 1222492  
License Type: Sales  
Effective Date: 08/05/08

**Hamidi, Mariam**  
License ID: Unlicensed  
License Type: Unlicensed  
Effective Date: 08/21/08

**Hilltop Financial Mortgage, Inc.**  
License ID: 1297037  
License Type: Corporation  
Effective Date: 08/21/08

**Johnson, Esperanza Nieves**  
License ID: 1250083  
License Type: Broker  
Effective Date: 08/13/08

**Marshall, Greg**  
License ID: Unlicensed  
License Type: Unlicensed  
Effective Date: 08/13/08

**Myers, Lynn**  
License ID: Unlicensed  
License Type: Unlicensed  
Effective Date: 08/05/08

**Signature One Mortgage & Real Estate**  
License ID: 1485813  
License Type: Corporation  
Effective Date: 08/13/08

#### SACRAMENTO REGION

**Allen, Darcy**  
License ID: Unlicensed  
License Type: Unlicensed  
Effective Date: 08/21/08

**Apex Financial Group**  
License ID: 1208645  
License Type: Corporation  
Effective Date: 08/13/08

**California Loan Associates, Inc.**  
License ID: 1514637  
License Type: Corporation  
Effective Date: 05/14/08

**Choyce, Dionne Edward**  
License ID: 1364227  
License Type: Broker  
Effective Date: 07/21/08

**Cirrus Tenant Lease Services**  
License ID: Unlicensed  
License Type: Unlicensed  
Effective Date: 08/05/08

**Darrow, Kyle S.**  
License ID: 1448631  
License Type: Sales  
Effective Date: 05/23/08

**Demarest, Donna**  
License ID: 1082195  
License Type: Sales  
Effective Date: 08/13/08

**Gonzales, Richard John**  
License ID: 1036541  
License Type: Broker  
Effective Date: 08/13/08

**Goodall, Heather**  
License ID: Unlicensed  
License Type: Unlicensed  
Effective Date: 08/05/08

**Gress, Maxine**  
License ID: 514127  
License Type: Broker  
Effective Date: 06/20/08

**Landmark Realty Corporation**  
License ID: 1493007  
License Type: Corporation  
Effective Date: 07/21/08

**Los Gatos Real Estate Connection Inc**  
License ID: 1220999  
License Type: Corporation  
Effective Date: 06/20/08

**Schultz & Schultz Enterprises, Inc.**  
License ID: Unlicensed  
License Type: Unlicensed  
Effective Date: 08/21/08

**Schultz, Stan**  
License ID: Unlicensed

License Type: Unlicensed  
Effective Date: 08/21/08

**Walker, Darrell K.**  
License ID: Unlicensed  
License Type: Unlicensed  
Effective Date: 05/07/08

**Youngs, Jason A.**  
License ID: 1267638  
License Type: Broker  
Effective Date: 05/07/08

#### SAN DIEGO REGION

**Kunz, Donna Lynne**  
License ID: 1410874  
License Type: Broker  
Effective Date: 06/24/08

**TM Associates, Inc.**  
License ID: 1044779  
License Type: Corporation  
Effective Date: 08/18/08


**Troxel, Tony Raymand**  
License ID: 578047  
License Type: Broker  
Effective Date: 08/18/08

## New Foreclosure Rules

Continued from page 1

lender or authorized agent to contact the borrower.

- (g) A lender or authorized agent must provide a means for the borrower to contact them in a timely manner, including a toll-free telephone number that will provide access to a live person during business hours.
  - (h) If the lender or authorized agent has a Web site, certain specified information must be posted to assist borrowers to avoid foreclosure.
  - (i) When posting a notice of sale on a property, a trustee or authorized agent must also mail to the "Resident of the Property Subject to Foreclosure Sale" a specified notice in English, Spanish, Vietnamese, Tagalog, Chinese and Korean, stating that the property may be sold at foreclosure and if you are renting the property, the new owner may give a new lease or rental agreement or provide you with a 60-day eviction notice. A copy of this notice is available on the DRE Web site at [www.dre.ca.gov/mlb\\_industry.html](http://www.dre.ca.gov/mlb_industry.html)
2. Applies regardless of when the loan was made and is in effect until January 1, 2013 unless extended by law.
- (a) A legal owner must maintain vacant residential properties purchased at a foreclosure sale or acquired through a foreclosure. A government entity can impose a civil fine up to \$1,000 per day for violations.
  - (b) Tenants or subtenants living in rental housing when a property is sold in foreclosure must be given 60 days written notice before they can be evicted.

The above is a summary of Senate Bill 1137; however consumers, lenders, their authorized agents, and other interested parties should completely review the law available at [www.leginfo.ca.gov](http://www.leginfo.ca.gov). 



## Advance Fees and Loan Modifications

*Continued from page 1*

unlicensed person, corporation or fictitious business name to provide the services will be returned without consideration.

- ❖ Advance fees must be placed in a broker's trust account until specified services have been completed and the borrower (principal) must be given periodic accountings of their funds.
- ❖ If the agreement is cancelled prior to the rendering of all of the services, or if not all of the advance is expended, the broker must refund the unused portion of the advance fee.
- ❖ Some brokers have submitted agreements that only provide for limited services such as reviewing the borrowers' financial condition, obtaining property information, reviewing documents, etc. These functions are just some of the steps in a single transaction in which the borrower seeks to obtain a decision from the lender or servicing agent for assistance on their loan. Agreements must provide for the broker to submit to, or negotiate with, the lender or loan servicing agent a proposed modification or other solution. Agreements that only provide for partial services with no requirement to contact the lender or servicing agent will not be considered.
- ❖ Agreements must contain all of the essential elements of an advance fee agreement. Before submitting their agreements, brokers should review Sections 10085 and 10146 in the Business and Professions Code and Commissioner's Regulations 2970 and 2972 (available on our Web site at [www.dre.ca.gov](http://www.dre.ca.gov)). They should also obtain "The Essential Elements of an Advance Fee Agreement" from the Web site as well.
- ❖ The DRE does not approve, endorse, recommend or make representations about advance fee services or agreements, their terms or any aspect of a licensee's business activities and brokers should not represent to consumers that they have received any such approval by the DRE.

Brokers who successfully complete the review process will be issued a "no objection" letter.

- ❖ Brokers who wish to provide loan modification or similar services to consumers and receive their compensation AFTER all services have been completed are not required to submit their agreements to the DRE for review. It is recommended that brokers obtain independent legal counsel when drafting those agreements.
- ❖ Brokers must ensure that they are providing the agreed upon services diligently. Brokers who engage in a practice of collecting advance fees and not acting in good faith may face disciplinary action.

The DRE has received many questions from brokers regarding affiliations with attorneys and whether they must comply with the advance fee rules. The Real Estate Law provides very specific licensing exemptions for attorneys who provide legal services to their clients. Business and Professions Code Section 10133(a)(3) provides an exemption for "An attorney at law in rendering legal services to a client". Section 10133.1(a)(5) is more specific stating in pertinent part "Any person licensed to practice law in this state, not actively and principally engaged in the business of negotiating loans secured by real property, when that person renders services in the course of his or her practice as an attorney.....".



Attorneys rendering legal services and collecting retainers are not permitted to share legal fees with non-lawyers, except in some very specific and limited circumstances (State Bar Rule 1-320 [Financial Arrangements with Non-Lawyers]). Some brokers or unlicensed persons and companies may be attempting to affiliate with attorneys

in order to circumvent DRE's advance fee or licensing laws. When the DRE makes such a determination after an investigation, it will seek to issue Desist and Refrain Orders and/or Accusations as appropriate against the person and/or company that is violating the Real Estate Law or the exemption set forth in the Mortgage Foreclosure Consultants Act (see Civil Code Section 2945.1[b] [1]). The DRE is currently conducting a number of these investigations.

If approached for referrals by a company that purports to be in the loan modification business, licensees must be cautious. If a licensee makes such a referral and the consumer is victimized or harmed by that company, the licensee is at risk of being investigated by the DRE for negligence and other potential violations of the Real Estate Law. Licensees have a duty to determine that the company is properly licensed (or has a bona fide exemption) and, if charging advance fees, they have completed the review process with DRE. The Department of Housing and Urban Development (HUD) has advised DRE that referral fees paid or received in a loan modification transaction would constitute a violation of the Real Estate Settlement Procedures Act (RESPA). HUD can be contacted at (202) 708-0502 for more specific information on referral fees.

Many brokers have properly submitted proposed agreements and are going through the review process. DRE has issued a number of "no objection letters" and is now posting the names of those brokers to DRE's Web site. The list of those brokers is available on the DRE Web site at [www.dre.ca.gov/gen\\_new\\_flash.html](http://www.dre.ca.gov/gen_new_flash.html). The article "Advance Fees and Loan Modification Services" contains a link to the list which is updated periodically. However, there are many other brokers who are now under the DRE's scrutiny for possible violations. Brokers are obligated to understand and comply with the real estate licensing and advance fee rules.

Questions regarding this article should be directed to the Mortgage Loan Activities Unit at (916) 227-0770. 